IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1672 OF 2007

Roopprakash Agarwal)
of Mumbai, Age: 68 years,)
Partner of M/s Omez Rest. and Bar)
situated at Bansidhar Bhavan,)
Turner Road, Bandra (West),)
Mumbai.) ...Petitioner

Versus

1. The Commissioner of Police,)
Greater Mumbai)

2. State of Maharashtra through)
the Hon'ble Minister of State)
(Home), Mantralaya,)
Mumbai 400 032.) ...Respondents

Shri Vishal Thadani i/by Smt Veena Thadani for the Petitioner.

Shri A.H.Palekar, A.G.P for the Respondent Nos.1 and 2.

CORAM : ABHAY S.OKA, J.

DATED : APRIL 03, 2007.

JUDGMENT:

1. Heard Advocates appearing for the parties. Rule. The learned A.G.P waives service for the Respondents. Considering the facts and circumstances of the case, taken up forthwith for final hearing.

2. The licence granted to the Petitioner has been

suspended for a period of 120 days by the order dated 30th December, 2006. Statutory Appeal was preferred by the Petitioner. As the Application for stay was not being decided, the Petitioner filed Writ Petition No.878 of 2007 in this Court. This Court directed the Appellate Authority by order dated 07th February, 2007 to decide the Application for stay within a period of one week from that day. By the impugned order dated 26th February, 2007, the Application for stay made by the Petitioner has been rejected. The Application for stay is not rejected on merits. The English translation of the order passed on Application for stay reads thus:

> "Fix for hearing immediately. "request for stay is rejected".

It appears that the Appellate Authority felt that Appeal should be decided immediately and therefore, it was not necessary to grant stay. The learned Advocate for the Petitioner states that hearing of the Appeal is now fixed on 26th April, 2007.

3. By the order dated 07th February, 2007, the Application for stay was directed to be decided within

one week. The order on the said Application was communicated to the Petitioner by letter dated 26th February, 2007. The Advocate for the Petitioner has tendered on record communication dated 03rd March, 2007 by which the Petitioner is informed that hearing of the Appeal has been fixed on 26th April, 2007. It is obvious that by 26th April, 2007 practically the entire period of suspension will be over and thus remedy of Appeal will be rendered redundant. The Appellate Authority has not granted stay by stating that the Appeal will be heard immediately. However, the hearing is fixed on 26th April, 2007. Considering the aforesaid approach of the Appellate Authority, there is no option but to protect the Petitioner till the final disposal of the Appeal. Hence, Petition is disposed of by passing following order:

(i) Prayer (d) of the Petition is granted.

(ii) The Appeal will be heard and decided as expeditiously as possible and preferably on or before 15th May, 2007. It will be open for the Appellate Authority to hear the Appeal even prior to 26th April, 2007 provided advance

notice of the date fixed is served to the Petitioner.

(iii) The Appeal will be decided by the Appellate Authority without being influenced by grant of relief in terms of prayer clause (d) of this Petition by this Court.

(iv) All contentions of the parties on merits of the Appeal are kept open.

(v) Parties to act upon an authenticated copy of this order.

JUDGE